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April 13, 2020

VIA CM-ECF

The Honorable Christopher J. Burke
United States District Court
For the District of Delaware
844 North King Street
Wilmington, DE 19801

Public Version Filed April 20, 2020

Re: *BioDelivery Sciences International, Inc., et al. v. Alvogen Pb Research & Development LLC, et al.*, C.A. No. 18-1395 (CFC)(CJB)
BioDelivery Sciences International, Inc., et al. v. Chemo Research S.L., et al.,
C.A. No. 19-444 (CFC)(CJB)

Dear Judge Burke:

The parties in the above-referenced actions write concerning proposed modifications to the case schedules in light of the COVID-19 situation. In the *Alvogen* action (C.A. No. 18-1395), trial is currently scheduled to begin on September 21, 2020. (D.I. 19). In the *Chemo* action (C.A. No. 19-444), trial as to invalidity issues is scheduled to begin on September 21, 2020 in coordination with Alvogen's trial. (D.I. 39). BDSI and Chemo also have an infringement trial currently scheduled to begin on February 1, 2021. (D.I. 39.)

Plaintiffs' Position:

BDSI and Chemo agree the case schedule and trial dates should be extended due to the current COVID-19 pandemic crisis. Chemo has suggested a six-month extension for the validity trial, which would make the validity trial no earlier than March 2021. Chemo has also suggested a three-month extension to the February 1, 2021, infringement trial, which would make that trial no earlier than May 2021. BDSI does not oppose Chemo's requests.

BDSI opposes Alvogen's proposal set forth below. A two-month extension would only extend the deadline to conduct any outstanding fact discovery through May 27, 2020, a time during which counsel and the relevant witnesses will very likely still be under shelter-in-place orders, many of which extend until at least mid-May, including for employees of BDSI that Alvogen still wishes to depose. BDSI is concerned that if the schedule is only extended for two months it will be unreasonably asked to risk the health and welfare of its current and former employees and their families by putting them up for depositions before the crisis has abated. Under these circumstances, Alvogen's unwillingness to agree to a six-month extension is unreasonable.

Defendant Alvogen's Position:

Alvogen does not believe an extension of the September 21, 2020 trial date is necessary. (D.I. 19). Accordingly, Alvogen is prepared to complete the remaining fact and expert discovery, including by



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remote means as necessary, to meet the September 21, 2020 trial date. However, should the Court determine that a short extension of the September 21 trial date is necessary and reschedules the trial to November or early December 2020, [REDACTED]

Defendant Chemo's Position:

Given the uncertainties of the COVID-19 situation, Chemo proposes a six-month extension of Chemo's invalidity trial, which has trial currently set for September 21, 2020. Chemo also proposes a three-month extension of Chemo's non-infringement trial, which has trial currently set for February 1, 2021. [REDACTED]

* * *

Counsel are available at the convenience of the Court, including during the discovery dispute teleconferences scheduled today at 1:00 p.m. and 3:00 p.m., to discuss an extension, if any, of the current schedules in these actions.

Respectfully,

/s/ Dominic T. Gattuso

Dominick T. Gattuso (#3630)

cc: Clerk of the Court (via CM-ECF)
Counsel of Record (via CM-ECF & electronic mail)